

Donald Williams
60 S. Division Apt., 323
Grand Rapids, MI., 49503

Honorable Robert Holmes Bell
Chief United States District Judge

***In The United States District Court
For The Western District Of Michigan***

Donald Williams,

Plaintiff,

vs.

Grand Rapids Public Library,

Defendant

) Case No.: 1:06-cv-635

)
) Reply To Defendants Reply Brief On
) Behalf Of Defendant Grand Rapids Public
) Library

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RONALD C. WESTON, SR., CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY: EC /

COMES NOW, the Plaintiff Donald Williams, with his Reply To Defendants Reply Brief
On Behalf Of Defendant Grand Rapids Public Library.

**I. REPLY TO DEFENDANTS REPLY BRIEF ON BEHALF OF
DEFENDANT GRAND RAPIDS PUBLIC LIBRARY**

A. THE MERITS

1. Tim's conduct and actions demonstrates Defendant's character "White Supremacy Racist Persons or Groups". See Plaintiff's Motion To Amend Pleadings (B)(a)(3), Plaintiff's First Amended Complaint (B)(a)(3).
2. Mr. Baldrige affirmatively and by omission to Plaintiff's Civil Rights authorized, approved and adopted a process or custom or policy to ban or bar Plaintiff for viewing a nude picture that abridges Plaintiff Civil Rights (West v. Atkins, 487 U.S. 42, 48 (1988); Redding v. St. Edward, 241 F.3d 530, 532 (6th Cir. 2001)) and knowingly acquiesced in the unconstitutional racial conduct of the offending

1 employee, Tim, (Leach v. Shelby County Sheriff, 891 F.2d 1241, 1246 (6th Cir.
2 1989) (citing Hays v. Jefferson, 668 F.2d 869, 874 (6th Cir 1982)). See Plaintiff's
3 Motion To Amend Pleadings (B)(a)(4), First Amended Complaint (B)(a)(4),
4 Motion For Summary Judgment (B)(1)(7)(a-i), Exhibits 1 through 6 and 6(A)
5 Request For Admission No. 8.

6 3. Defendant allows the viewing of pornography for different reasons in Defendant's
7 judgments which are not made for the same purpose of prohibiting pornography
8 in GRPL. Defendants judgments (allowing "Whites" to view publicly displayed
9 pornography in GRPL) made for different reasons (of banning or barring "Blacks"
10 for viewing a nude picture) are not made for the same purpose (in prohibiting the
11 viewing of nudity in GRPL). United States v. American Library Association, 539
12 U.S. 194 (2003)). *Id.* at 203, 205, 206, 208. Defendant's process or custom or
13 policy fails to ensure a rational means to further a legitimate governmental
14 interest or objective. City of Cleburne v. Cleburne Living Center, Inc., 473, 439
15 (1985). *Id.*, 440. City of New Orleans v. Dukes, 427, U.S. 297, 303 (1976).

16 4. The only rational basis or sense Defendant's process or custom or policy and
17 conduct and action make is that Defendant's character merits "White Supremacy
18 Racist Persons or Groups." Defendant's conduct shocks the conscience
19 because Defendant is deliberately malicious to Plaintiff and callously indifferent
20 to Plaintiff's Civil Rights. County of Sacramento v. Lewis, 523 U.S. 833, 846, 118
21 S. Ct. 1708, 1716 (1998). See *id.* at 846-850, 118 S. Ct. at 1717-18. *Id.* at 851,
22 118 S. Ct. at 1719. See Plaintiff Exhibits 1 through 6(A) Request For Admission
23 No. 8.

24 5. Defendant prohibits the viewing of pornography in GRPL. Defendant contains
25 pornographic pictures in GRPL print collection. Defendant prohibits or blocks

1 internet pornography. The Defendant discusses catching Plaintiff in some GRPL
2 policy violation with a fellow employee. Defendant's actions invading Plaintiff's
3 privacy by watching and view what Plaintiff was doing on Plaintiff's laptop
4 computer where purposeful and willful. Defendant's banning or barring Plaintiff
5 immediately for viewing a nude picture for about five seconds without common
6 courtesy or generosity in informing or warning Plaintiff that viewing nudity was
7 prohibited was intentional. The Plaintiff by process or custom or policy is ban or
8 barred from GRPL for viewing a nude picture for about five seconds.
9 Defendant's officials knowingly acquiesced the unconstitutional conduct of the
10 offending employee. The offending employee unprovoked re-approaches
11 Plaintiff again and intimidates Plaintiff about the previous incident. Plaintiff was
12 not accorded appropriate process. Mr. Buzzalini is allowed to view and publicly
13 display pornographic pictures in GRPL without discipline or restriction or incident.

14 6. There is no claim in Plaintiff's complaint to a right to view nude pictures or a right
15 to view internet pornography or a right to checkout books with nude pictures in
16 them. There is no genuine issue as to any material fact of a right to view nude
17 pictures or a right to view internet pornography or a right to checkout books with
18 nude pictures in them. There is a genuine issue as to the material fact of
19 Defendant treating Plaintiff differently rather than similar in banning or barring
20 Plaintiff from GRPL by process or custom or policy for viewing a nude picture
21 rather than treating Plaintiff as similarly "White Citizen" who are allowed to
22 publicly view and display pornography in GRPL.

23 7. Defendant's disputes are; Plaintiff has failed to state a claim upon which relief
24 may be granted, the rules for library internet use apply and Defendant's mere
25 denial of abridging or depriving Plaintiff Civil Rights.

1 8. In Defendant's "Motion For Summary Judgment pg.11, middle paragraph"
2 Defendant asserts:

3 "The issue is the public display of pornographic material in the
4 GRPL." "Nor should there be dispute that what Plaintiff was
5 viewing was pornographic."

6
7 9. Plaintiff's complaint states a claim upon which relief can be granted under Rev.
8 Stat. Sec. 1979. Under Rev. Stat. § 1979 unless it appears beyond doubt that
9 the Plaintiff can prove no set of facts in support of Plaintiff claim which would
10 entitle Plaintiff to relief. A complaint states a claim. Conly v. Gibson, 355 U.S.
11 41, 45-46, 78 S.Ct 99, 101, 102, 2L.Ed, 2d 80. See Plaintiff's Exhibit 6(A)
12 Request For Admission 1 and 8.

13 10. Even if the rules for library internet pornography apply Defendant violated
14 Defendant's own process or custom or policy in allowing similar "White Citizen" to
15 view and publicly display pornographic pictures in GRPL. See Plaintiff's Exhibits
16 4 and 5. Plaintiff can prove purposeful, willful and intentional discrimination of
17 state actor by both methods. (A) That Defendant treated Plaintiff differently
18 because he is a "Black Man" rather than as similar "White Citizens." (B) The
19 Defendant's process or custom or policy and conduct and actions evidence (1)
20 Plaintiff belongs to a protected minority group (2) Plaintiff was entitled to public
21 library facilities (3) Plaintiff was denied the benefit of public library facilities (4)
22 Similar "White Citizens" are allowed to view nudity in GRPL where Plaintiff "Black
23 Man" is not. Plaintiff "A Black Minority" is impacted by Defendant's process or
24 custom or policy with regard to race or color and Defendant's conduct and
25 actions have an adverse impact on Plaintiff and "Minorities As A Group". Wards

1 Cove Packing Co. v. Atonio, 490 U.S. 642 (1989). See Plaintiff's Exhibits 1
2 through 6.

3 11. The only remaining dispute is the Defendant's mere denial of Defendant
4 abridging and depriving Plaintiff's Federally Secured and Protected Civil Rights.
5 Defendant's process or custom or policy and conduct and actions demonstrate
6 malicious and callous indifference both to Plaintiff and to Plaintiff's Civil Rights.
7 No jury would disbelieve Defendant overwhelming failed to comply with treating
8 Plaintiff equally (Title VI of the Civil Rights Act of 1964) and caused Plaintiff the
9 denial of the full rights and privileges of a place of public accommodation or a
10 place of public use by segregating Plaintiff for viewing a nude picture (Const.
11 Amend. 1, 4, 5, 8, 14). Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 251-52
12 (1986). It makes no sense for Defendant to fail to ensure a rational means to
13 further a legitimate governmental interest or objective. City of Cleburne v.
14 Cleburne Living Center, Inc., 473, 439 (1985). *Id.*, 440. City of New Orleans v.
15 Dukes, 427, U.S. 297, 303 (1976). Plaintiff's factual evidence is one-sided and
16 so powerfully overwhelming that no trier of fact would reasonably submit it to a
17 jury. Arnett, 281 F.3d at 561. See Plaintiff's Exhibits 1 through 6.

18 12. Summary Judgment in favor of Defendant's burden of persuasion "Is
19 inappropriate when the evidence is susceptible of different interpretations or
20 inferences by the trier of fact." Hunt v. Cromartie, 526 U.S. 541, 553 (1990). In
21 Defendant Motion For Summary Judgment pg.11, middle paragraph Defendant
22 asserts:

23
24 "The issue is the public display of pornographic material in the
25 GRPL." "Nor should there be dispute that what Plaintiff was
viewing was pornographic."

1 Defendant now has a different interpretation and infers that different
2 circumstances exist between what Plaintiff publicly displayed in GRPL and what
3 Mr. Buzzalini publicly displayed in GRPL. Defendant now asserts that:

4 "The mere fact that Mr. Buzzalini was able to check out books
5 without more does not suggest that Mr. Williams would not have
6 been able to check out the same books."

7 "Further, Mr. Williams has not asserted or demonstrated that a
8 white Native American would be able to publicly view internet
9 pornography at the Grand Rapids Public Library."

10 See Defendant's Reply Brief On Behalf Of Defendant Grand Rapids Public
11 Library pg. 2, 3rd paragraph last 3 sentences and pg. 3, 2nd paragraph 3rd and 4th
12 sentence. Plaintiff's pleadings and record are consistent. One of the elements
13 for Plaintiff's case (established in the pleadings and on record) is that Plaintiff's
14 segregation was over viewing a single half nude picture with no internet or
15 website markings. (See Plaintiff's Complaint (B)(a)(1), Motion To Amend
16 Pleadings(B)(a)(3) and First Amended Complaint (B)(a)(3), Exhibit 2(A)(1) first
17 sentence and Williams Dep. pg. 82-85, 108, 122-123). Obviously, Mr. Buzzalini
18 had to view and publicly display the pornographic pictures inside GRPL before
19 he could assess that they where in fact what Plaintiff requested (See Exhibit 4).

20 Under Rev. Stat. Sec. 1979 it is not necessary to allege that the action taken
21 was authorized. The issue is "The public display of pornographic material in the
22 GRPL" and not the "Checking out of books" or the "Viewing of internet
23 pornography" where there is no claim to these issues (See Plaintiff's Exhibit 6
24 Request For Admission 8). Obviously, Mr. Buzzalini publicly viewed and
25 displayed the pornographic pictures in Exhibit 4 inside GRPL before he checked

1 the books out. (See Exhibit 4 and 5(A)(2) 2nd sentence). Nor should there be
2 dispute that what Mr. Buzzalini viewed in Exhibit 4 while inside GRPL is
3 pornographic. Plaintiff has shown the Court Defendant treated Plaintiff
4 differently rather than similar in violation of Title VI of the Civil Rights Act of 1964
5 and deprived Plaintiff the full rights and privileges to a place of public
6 accommodation or use.

7 Because the Defendant changes context at whim; from the "Public display of
8 pornographic material in the GRPL" to the "Checking out of books" and the
9 "Viewing of internet pornography" by different interpretations and inferences to
10 suite Defendant's purpose of establishing grounds of genuine issues of material
11 fact in violation of Rule 11(a)(b)(1-4)(c). The Defendant's Motion for Summary
12 Judgment should be DENIED and the Plaintiff's GRANTED.

13 13. Plaintiff asserts that racial discrimination exists where Defendant intimidates
14 Plaintiff for release forms (See Williams Dep., pg. 6-7, 28), violates FRCP Rule
15 11, fails to comply with Title VI of the Civil Rights Act of 1964 and deprives the
16 Plaintiff Federally Protected Civil Rights (Const. Amend. 14).

17 14. The evidence presented by Plaintiff both in the pleadings and on record
18 represents both the same circumstances and context. Where both Plaintiff and
19 Mr. Buzzalini viewed and publicly displayed nude or pornographic pictures in
20 GRPL. Under the same context and circumstances Plaintiff was ban or barred
21 (segregated) from GRPL for viewing a nude picture where Mr. Buzzalini was not.
22 Mr. Buzzalini's statement was clear (See Exhibit 5(A)(2-3)).

23 15. Where both Plaintiff and Mr. Buzzalini circumstance represent the same context
24 it is not rational for Defendants judgments (in allowing "Whites" to view
25 pornography) made for different reasons (of banning or barring "Blacks" for

viewing a nude picture) are not made for the same purpose (in prohibiting nudity in GRPL). See Mr. Baldridge Statement in Plaintiff's Motion To Amend Pleadings (B)(a)(4), First Amended Complaint (B)(a)(4), Exhibits 1 through 5 and 6(A) Request For Admission No. 8. United States v. American Library Association, 539 U.S. 194 (2003)). Id. at 203, 205, 206, 208.

16. Plaintiff asserts "White Supremacy Racist Persons or Groups" exists where Defendant fails to ensure a rational means to further a legitimate governmental interest or objective. City of Cleburne v. Cleburne Living Center, Inc., 473, 439 (1985). Id., 440. City of New Orleans v. Dukes, 427, U.S. 297, 303 (1976). Where Defendant intimidates Plaintiff for release forms (See Williams Dep., pg. 6-7, 28) and fails to comply with FRCP Rule 11. Where Defendant violates Defendants own policy and treats Plaintiff differently rather than similar (Title VI of the Civil Rights Act of 1964). Where Defendant abridges and deprives Plaintiff's Civil Rights in the malicious and callous conduct and actions of the offending employee Tim. "White Supremacy Racist Persons or Groups" exists where Defendant egregiously violates Defendant's own process or custom or policy and whose conduct and actions arbitrarily and flagrantly racially prejudice Plaintiff in treating differently rather than similar.

B. CONCLUSION

1. What higher standard of proof could Plaintiff offer where Defendant switches or changes the context to different interpretations and inferences at whim to suite Defendant's purpose of establishing grounds of genuine issues of material fact in violation of Rule 11. The Defendant's Motion For Summary Judgment should be DENIED and the Plaintiff's GRANTED.

- 1 2. The standard of proof that Racial Discrimination Exists is in Defendant
2 overwhelming failing to comply with Title VI of the Civil Rights Act of 1964 and
3 depriving Plaintiff Federally Secured and Protected Civil Rights (Const. Amend.
4 14). The Defendant's conduct shocks the conscience because Defendant is
5 deliberately malicious to Plaintiff and callously indifferent to Plaintiff's Civil Rights.
6 County of Sacramento v. Lewis, 523 U.S. 833, 846, 118 S. Ct. 1708, 1716
7 (1998). See *id.* at 846-850, 118 S. Ct. at 1717-18. *Id.* at 851, 118 S. Ct. at 1719.
8 Defendant's judgments made for different reasons are not made for the same
9 purpose. It is not rational and it makes no sense for Defendant to fail to ensure a
10 rational means to further a legitimate governmental interest or objective.
- 11 3. The Federal Courts require that the classification challenged be rationally related
12 to a legitimate state interest. City of New Orleans v. Dukes, 477 U.S. 297, 303
13 (1976). When a law impacts a "suspect class" (such as race or color) or invades
14 "fundamental rights" (such as "due process and equal protection") will the courts
15 impose the more rigorous strict scrutiny test. City of Cleburne, 473 U.S. at 440.
16 There has been infringement of rights, subject to due process and equal
17 protection, and review under rational basis is inappropriate. DeShaney v.
18 Winnebago County Dep't of Soc. Servs., 489 U.S. 189, 200, 109 S. Ct. 998, 1006
19 (1989). The Defendant is liable for the consequences of Defendant's acts in a
20 Civil Rights case so long as Defendant's conduct is done under color of law and
21 deprives a Plaintiff of a Civil Right. Aldridge vs. Mullins, D.C.Tenn.1972 377
22 F.Supp 850. Whether or not the conduct of Defendant was authorized or even if
23 it was prescribed by law. Monroe v. Pape, 365, U.S. 167, 187, 81 S.Ct 473, 5
24 L.Ed.2d 492.
- 25

1 **WHEREFORE**, Plaintiff Prays this Honorable Court, DENY Defendant's and GRANT
2 Plaintiff's "Motion For Summary Judgment."

3 Dated This Monday, September 3, 2007

4
5 By:



6 **Donald V. Williams**
7 **60 S. Division St., SE., Apt., 323**
8 **Grand Rapids, MI., 49503**

9 **C. CERTIFICATION OF MAILING**

10 I do hereby certify that on the 4 day of September 2007. I
11 mailed a true and correct copy of the above and foregoing instrument to Daniel A.
12 Ophoff, Assistant City Attorney, 620 City Hall, 300 Monroe Ave., NW, Grand Rapids,
13 MI., 49503.

14 Dated This Monday, September 3, 2007

15 By:



16 **Donald V. Williams**
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